

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(d)(3)(C) of the Telecommunications Act
that the Requested Authorization is
Consistent with the Public Interest,
Convenience and Necessity

PUC Docket No. P-421/CI-01-1373
OAH Docket No. 6-2500-14488-2

SIXTH PREHEARING ORDER

These matters came on for prehearing conference before Administrative Law Judge Allan W. Klein on December 6, 2001. Administrative Law Judges Steve M. Mihalchick and Richard C. Luis also participated in the prehearing conference. The conference was conducted by telephone.

The following persons noted their appearances at the prehearing conference:

Jeffrey Dillen, Jason Topp, and Robert Munn, for Qwest Corporation (Qwest).

Ginny Zeller and Sue Peirce, Assistant Attorneys General, for the Department of Commerce (the Department).

Jeanne M. Cochran, Assistant Attorney General, for the Office of the Attorney General, Residential Utility and Small Business Division (OAG-RUD).

Gary Witt, for ATT.

Rebecca Liethen, for Time Warner.

Michael Bradley, for the CLEC Coalition.

Megan Dobernack, for Covad.

Carrie Rice, for Hickory Tech.

Diane Wells, for the Public Utilities Commission (Commission).

PROTECTIVE ORDER CLARIFYING CLEC DATA HANDLING

1. Qwest moved to clarify the protective order governing the handling of CLEC data, in light of the filing deadline on the Public Interest docket, OAH No. 6-2500-14488-2, requiring the initial filing on December 10, 2001. Qwest expressed concern that individual CLECs would have sensitive marketing data disclosed in that filing. Such data includes: the quantity of CLEC business and residential customer records reported in the E-911 database, the quantity of interconnection trunks in service purchased from Qwest, the quantity of telephone numbers ported, the quantity of white pages listings, the quantity of resold lines, the quantity of unbundled loops (stand-alone unbundled loops and UNE-P) and performance indicator definitions data or other performance data. The other parties to this proceeding agreed that the CLEC data was sensitive and that steps needed to be taken to preclude improper disclosure of that information.

2. Information specific to CLECs is hereby ordered to be produced by Qwest and must only be made available to (i) the Commission and its Staff, (ii) the presiding Administrative Law Judge and the Office of Administrative Hearings; (iii) the Residential and Small Business Utilities Division of the Office of the Attorney General; and (iv) the Department of Commerce. Aggregate data shall be provided to all parties, subject to the limitations in paragraph 4.

3. Information produced pursuant to paragraph 2 will be masked so that each CLEC is only identified by a pseudonym (*i.e.*, "CLEC A," "CLEC B," etc.), unless that CLEC consents to the identification of the information, or the ALJ issues an order requiring disclosure. Qwest will send a written notice to each CLEC whose information is to be produced. A copy of this Order and the Supplemental Protective Order issued on November 27, 2001, shall accompany the notice. The notice shall indicate that the CLEC has five (5) business days from receipt of such notice to make any response or objection regarding the identification of information specific to that CLEC to Michael Lewis, at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401-2138. The notice shall state that if the CLEC consents, or fails to object or respond within five (5) business days, Qwest will provide the CLEC-specific information in unmasked form to the entities identified in paragraph 2 of this Order. In the event that a CLEC files a timely objection to the disclosure, that objection will be considered by an Administrative Law Judge and an order issued regarding that CLEC's information.

4. The written notice from Qwest described in paragraph 3 will inform CLECs that aggregate data is being disclosed on a wire center basis. Any objection by an individual CLEC to disclosure of aggregate data must be made in the same manner as for CLEC-specific information. No objection will be entertained for wire centers with four or more CLECs having data aggregated. No aggregate data will be disclosed by Qwest to any parties other than the governmental entities listed in paragraph 2 until the time for objections has expired and any outstanding objections have been resolved.

5. The following CLECs have given their approval for the disclosure of their CLEC-specific information unmasked and in accordance with paragraph 2 of this Order:

AT&T Communications of the Midwest, Inc., TCG Minnesota, Inc., AT&T Broadband Phone of Minnesota, Inc., Covad Communications Co., Crystal Communications d/b/a Hickory Tech, Ace Telephone Association, BEVCOMM, Inc., Encore Communications, HomeTown Solutions, LLC, Hutchinson Telecommunications, Inc., Mainstreet Communications, LLC, NorthStar Access LLC, Otter Tail Telecom, LLC, Paul Bunyan Rural Telephone Cooperative, Tekstar Communications, Inc., Unitel Communications, and U.S. Link. Accordingly, disclosure of the unmasked identities of these consenting CLECs is hereby ordered. This consent for unmasked data does not preclude filing an objection to disclosure of aggregate data consistent with the procedure in paragraph 4.

6. The Minnesota Government Data Practices Act (“MGDPA”)^[1] governs the maintenance and dissemination of data by Minnesota government entities. Therefore, the Minnesota governmental entities shall not disclose the information governed by this Order except as authorized by the MGDPA or other applicable law. The Office of the Attorney General and the Department of Commerce may provide the information to their respective experts retained to provide assistance on this matter, pursuant to the terms of the Supplemental Protective Order issued in all dockets of the Qwest 271 Application on November 27, 2001.

7. Documents containing CLEC-specific information that are produced pursuant to this Order will be labeled “NON-PUBLIC: HIGHLY SENSITIVE CLEC-SPECIFIC TRADE SECRET INFORMATION” and will be produced on pink paper.

Dated: December 10, 2001

/s/ Allan W. Klein
ALLAN W. KLEIN
STEVE M. MIHALCHICK
RICHARD C. LUIS
Administrative Law Judges

^[1] Minn. Stat. Chapter 13.